

**CLARK COUNTY PLANNING COMMISSION
MINUTES OF HEARING
THURSDAY, APRIL 17, 2003**

City Hall Council Chambers
210 East 13th Street
Vancouver, WA

6:30 p.m.

CALL TO ORDER

The public hearing of the Clark County Planning Commission was called to order at 6:30 p.m. by Vice Chair, Jeff Wriston. The hearing was held at the City Hall Council Chambers, 210 East 13th Street, Vancouver, Washington.

Members Present: Jeff Wriston, Vice Chair; Dick Deleissegues, Ron Barca, Lonnie Moss, and Carey Smith.

Members Absent: Vaughn Lein, Chair; and Jada Rupley.

Staff Present: Patrick Lee, Long Range Manager; Bob Higbie, Assistant Long Range Manager; Rich Lowry, Chief Deputy Prosecuting Attorney, Elise Scolnick, Planner II; and Sonja Wiser, Administrative Assistant.

Other: Cindy Holley, Court Reporter.

GENERAL & NEW BUSINESS

A. Approval of Agenda for April 17, 2003

The agenda was approved as distributed.

B. Approval of Minutes of February & March 20, 2003

It was **MOVED** and **Seconded** by all members present to **APPROVE** the Minutes of April 27, 2003. **MOTION WAS APPROVED** by unanimous voice vote of all members present.

C. Communications from the Public

None.

D. Informational Update on Comp Plan Text – Oliver Orjiako

ORJIAKO: Okay. Oliver Orjiako, Clark County Long-Range Planning Division. And briefly this is not a hearing item, it's just an informational item to the Planning Commission members. We had a work session with the Planning Commission on the effort we're making to update the comp plan text as part of the plan review, and at that work session, if

I recall, the Planning Commission wanted to, wanted staff to come back and provide the Planning Commission with some section of the text that we've completed because you don't want to have this all at one point for you to read during the hearing process of the plan review. So what you have or what was couriered to you is the completed sections of the plan document that we've completed.

The changes are very minor. Some are fairly technical in nature, just to make sure that our comp plan is consistent with some of our implementing ordinance and, you know, some grammatical corrections, and some of it will also entail some policy changes as we move toward the preferred plan. When that is firmed up we will be updating the land use, the capital facilities element, transportation and then the economic development element. Those four chapters are not included in what we've provided you. Those will probably be the most important element for you to review as we go through the hearing process. What we've completed so far is available for public comment. It was released at the same time that the draft EIS for the plan review was released to the public and you have a copy of that I believe.

What I will suggest is if you have any comment or will want us to come back and brief you in details in what is included in the draft EIS or the plan text, we will certainly do that, but this is available for public review, as well as the draft EIS. It is available for purchase, the CD, for \$5, and that includes an entire draft EIS as well as the plan document. So if you're reviewing the draft EIS as well as the comp plan, it's available for \$5. That's all I have. Again, it's not a hearing item, it's part of informing the PC of what the work that we're doing in relation to the plan review process. But this will be coming to you when it's fully completed so that you will probably get testimony on some of this that may become an issue, but at this point there are no relevant significant issues that have been raised in terms of the work that we've forwarded on.

WRISTON: Okay. Great. Thanks, Oliver. Any questions?

DELEISSEGUES: Yeah, I just have a question. Are the workshops on the 12th and the 19th on this subject?

ORJIAKO: It will be on the draft EIS, information on the draft EIS. Am I correct?

LEE: Pat Lee, Long-Range Planning Manager with the Community Development Department. The joint work sessions with the Board are really geared at certainly reviewing information developed up to this point which would include the draft EIS, some revisions to the economic development chapter, a focus public investment error report that we'll be coming out with at the end of the month, and also a revenue forecast and sort of a discussion of the relative strengths and weaknesses of the various alternatives that are portrayed in the EIS to give the Board some guidance as they select what would be a preferred alternative that would then become the basis for finalizing a land use map, finalizing land use transportation, economic development and capital facilities policies and then moving through the rest of the process preparing the final EIS. So the joint work sessions are really geared to trying to discuss the preferences, but, you know, a lot of the work that we've done to date is folded into these documents that you're receiving so hopefully you'll read through them and be prepared to, you know, discuss and advise the

Board on what your thoughts are about the various alternatives, their strengths and weaknesses.

DELEISSEGUES: Good. Thanks.

WRISTON: Thanks, Pat. Okay. Before we get to the meat of the evening then, originally I think on the agenda we had the home occupation ordinance and at one point current use, I don't think either one of those were advertised, but I just wanted to make sure that everyone knows that those aren't on the agenda tonight. The only thing that's on the agenda tonight is deliberations on the remand on the 3500 acres that we dealt with here I think at last month's hearing. At that hearing we closed public testimony so we won't be taking any public testimony tonight, all we'll be doing tonight is hearing from staff additional comments and have the ability to ask staff questions, and then the Planning Commission will deliberate and hopefully make some decisions and pass it on. So explain that to everyone. And with that we'll turn it over to staff.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

A. REVIEW OF SELECTED RURAL PARCELS FOR CONSIDERATION FOR REDESIGNATION TO RESOURCE LANDS:

A public hearing to review selected rural parcels to be considered for redesignation in the Comprehensive Plan to resource lands. In 1998 the Washington State Growth Management Hearings Board ordered that about 3,500 out of 35,000 acres of rural lands originally designated as Agri-Forest (AF-20) and subsequently changed to rural residential, be further reconsidered by the county for the appropriateness of designation as agriculture or forest resource land. Land owners affected by this action have received specific mailed notice concerning this review.

**Staff: Bob Higbie, Project Manager, (360) 397-2375, Ext. 4113
Elise Scolnick, (360) 397-2375, Ext. 4958**

HIGBIE: At the last meeting, at the conclusion of the last meeting you asked that we prepare a set of aerial photos that displayed the tax lots on them, we did that and mailed them out to you earlier this week and it does help, it very clearly indicates the amount of development that's going on in the county. We also included a table in that packet summarizing the testimony that you had received at the hearing or in writing and in that summary, it is a summary only and so there may be things in there that people have wrote that information may consider incomplete. So we're not trying to replace that written testimony, we're just trying to summarize it for you.

For the purposes of this deliberation we would suggest the format that we kind of used at the last hearing, then, that where we started out with a general discussion of the issues and that sort of thing amongst the Planning Commission members themselves and you asked us questions when you wanted to, then after that then go through the maps one by one in the same order that we did last time. And on each map there are areas that are identified where we would like the conversation to focus on, and many of them you will probably want to discuss individually, and then at the end of each -- well, either at the time you end your discussion on each area we would suggest you vote, or if it's more convenient wait until the end of the map to vote, but certainly don't wait until the very end because it would be difficult to remember what you were discussing at the beginning. We don't plan on any further staff presentation in terms of the recommendations, those recommendations were contained in the original staff report, the matrix that we've provided, and they are also in the handout that we mailed to you on Monday, but we certainly would respond to any questions that you have.

WRISTON: Okay, thank you, Bob. Everyone know that I think that you're referring to the this is the kind of the document that's going to walk us through it a little bit, everyone's got that. I think what we'll do is take it like Bob suggested, my suggestion would be to take it map by map. There are on each map areas where you've got parcels that were reviewed and they've got areas where parcels that are proposed for change. We could probably vote -- the parcels that were reviewed, were reviewed that staff recommended no change on; is that correct, so we could probably vote on those --

HIGBIE: As a group.

WRISTON: -- as a group at the outset unless there's any disagreement on staff's recommendation, and then what I'd recommend is we take each of the areas of the maps individually and discuss and probably just vote on each area as we go through. So on this map, you know, Area 9 and then Area 23 and maybe even break them down depending upon the circumstances into individual parcels if they involve, you know, we'll just kind of see how it flows. Does that sound all right? Okay. Well, yeah, did you have something?

MOSS: Yeah. Bob, do you have an extra copy that I find myself not playing with a full deck and I thought I brought that with me and didn't.

WRISTON: The aerials?

MOSS: Yeah.

WRISTON: They are helpful. All right. And, Bob, do you want, we can bring out Map 1 and do you want to say, do you want to just introduce the areas and the areas proposed for change and not change and then we'll just go from there?

BARCA: Mr. Chair, before we get into that I need a clarification for the record, I'd like staff to please go over the role that the Planning Commission played in establishing the list of parcels for review.

HIGBIE: Yes. You had no role in establishing what properties we're looking at, the people

sitting at this table likewise had no say in the selection of the tax lots that we're looking at, that was selected by a group of people that served on the Agri-Forest Task Force originally and appealed, of course, a portion of that decision to the Western Washington Hearings Board and those are the properties that we're looking at tonight.

BARCA: Thank you.

WRISTON: Okay. Lonnie.

MOSS: Before we get too far into this I think it might be appropriate to have a little discussion about the role of the Planning Commission members and particularly as it relates to potential conflict of interest or at least the appearance of conflict of interest. And I want to bring this up at this time because there are at least three of these parcels where my firm has or will be potentially doing some work and I think in the interest of full disclosure I ought to explain that to some degree. Before I do that I'd like to spend a little time talking about what I see to be the role of the Planning Commission and myself as a member of this Planning Commission. One of the things that I'd like to do is to correct what I think is a fairly widespread belief that this is a body that sits in judgment and makes decisions in an unbiased manner, that isn't the role of this Planning Commission. As a matter of fact I see my role as being an advocate for a certain point of view and I see that the same is true for many of the other folks on this Planning Commission. I want to talk a little bit about my history, not to dwell on this for too long but to explain my role in this agri-forest issue from the beginning and what kind of work that I do and how it might relate. When I get through with this, I'm going to ask Rich Lowry to make some comments and guidance on what action that he might suggest that I would take on some of these parcels that I'm going to mention.

First, I was a founding member of Clark County Citizens United and was president for a couple of years. Clark County Citizens United is the group that petitioned originally to the Growth Management Hearings Board to have the 36,000 acres of agri-forest land be declared or be remanded to the County, that Citizens United didn't feel that that was a legitimate resource land designation. The Hearings Board turned that down. Citizens United took that on to the Superior Court and it was determined at that time that that was not a legitimate resource land designation. The Superior Court sent this back to the Hearings Board or to the County for further work and that resulted in an appointment of a task force that looked at the entire 36,000 acres of land and made recommendations as to how that land should be zoned if not agri-forest. Those recommendations were pretty much put into to effect by the Board of County Commissioners with the exception that there was an appeal by members of an environmental or preservation oriented group about 3500 acres and the Hearings Board chose to send this 3500 acres back to the County for further work. Well, that's the 3500 acres that we're looking at right now.

So in the interest of full disclosure it's pretty clear, I think, that I didn't believe that the 35, 36,000 acres was appropriately designated in the first place. I've been very outspoken in my viewpoints about resource land designation in rural Clark County in the past and that was in fact one of the reasons that I was appointed to serve as a Planning Commissioner back about seven years ago and was subsequently reappointed to a six-year term. That is that I bring to the discussion here a certain point of view that needs to be, needs to be

presented I believe. As I said, there are others on the Planning Commission who have different points of view. The role, really, of the Planning Commission is not to sit here in judgment and pass an impartial decision, it's to make a recommendation to the Board of County Commissioners which isn't binding in any way, and if you'll check the record you'll find that the Board of County Commissioners is relatively independent in determining whether to accept our recommendation. What I view as being very important in the role that we perform is that we do flush out all sides of the discussion, that we make the arguments and try to present them as people with different points of view so that the Board of County Commissioners can make an informed decision that results in good public policy being adopted.

Having said all that, I'd also like to explain that I own an engineering and land use consulting firm that does work in both the rural and the urban area. As a matter of fact there's one parcel of land here that my firm has made a land use app, excuse me, a land use application on, that's the Wirtanen parcel, and just today we were informed that the Wirtanen parcel is contingently vested so that it can be divided into four lots. Whether or not the Wirtanens decide to go through with that may be dependent upon the outcome of the Board of County Commissioners' decision, but in the interest of full disclosure they have 180 days, the Wirtanens do, to decide whether to go ahead and certainly that decision will be made in that time. Anyway, regardless of the decision they will be able to go ahead with their land division since they're contingently vested right now.

There are two other parcels that I've got to mention briefly and one of those is the Schumacher property. I own land at Heisson adjoining the Schumacher farm. I bought my land from the Schumachers some 17 years ago, I'm very close friends with Mr. Schumacher, have served on the board of Clark County Citizens United with him for several years now and consider him to be a very close friend. I'm also very much aware of his situation on his farm, what his economic potential is in farming that land, what he's historically done with it and also what he intends to do with it in the future. I have rendered advice and intend to give more advice within the next few weeks to see what can be done to ensure that he retains some of the options that I believe that he deserves to do for the use of his land depending on the outcome of these proceedings. The situation is very similar with the Kullberg property, that I intend to do exactly the same thing in that case.

Now having said all that, the issue is whether this puts me in conflict of interest and the question is whether I should recuse myself from further discussion and from voting on any of these parcels, that's a decision that I've wrestled with here for the last couple of days and have reluctantly made a decision about today, and that's that the most troubling part of this decision for me is that I am very knowledgeable about these parcels, particularly the Schumacher parcel, I have a very good understanding of the Wirtanen parcel that I mentioned earlier and the Kullberg and their histories and I believe that I bring enough to the -- I believe that I bring a viewpoint to the table that shouldn't be excluded from the discussion of those parcels. The outcome of this hearing is not necessarily going to be a decision, but it's going to be a recommendation that's going to have far-reaching implications upon the owners of these properties. So I don't take that lightly and I'm not anxious to recuse myself for that reason, that I am very concerned about this outcome.

I'm also concerned about the integrity of this process and that's why I'm going into

considerable detail or length of discussion in letting all this out in public. I'm concerned about not only the legality of my participating in this, but also about the effect that my participation might have on the integrity of the outcome. That's a tough thing to wrestle with. I've had discussions earlier today with Mr. Lowry and he will probably at my request venture an opinion as to what my participation can be or should be in these cases, but the decision ultimately is mine. I think that I can make that decision and render as impartial a vote if I choose to vote on any of these as anybody at the table, and that is recognizing that I didn't come here without bias and that wasn't what I was charged with when I was appointed to the Planning Commission, that I came with a point of view. I intend to keep that point of view, I certainly intend to consider all of the testimony that we've received to date and do so in as fair and equitable manner as I can. Anyway, with that disclosure, Rich, I'd be glad to hear from you.

LOWRY: Rich Lowry, Clark County Prosecutor's Office. One initial factual correction, when we had the challenge to the redesignation of the 35,000 acres that challenge went well beyond the 3500 that are now under consideration. Virtually all of the redesignations, if not all, were challenged before the Hearings Board. There was a split decision on the three member Hearings Board, two of the members agreed on remanding the 3500 acres, the third member would have additionally remanded several more thousand acres for reconsideration, so the challenge was much broader than just the 3500 that we're dealing with today. You're absolutely correct that this body isn't appointed in order to impartially hear cases. You are a very different body than the Hearing Examiner. The Hearing Examiner is appointed to hear what attorneys call quasi-judicial land use applications, to hear them in an impartial way and to render them without personal bias but instead based upon the codes and plans that have been enacted.

This body is a legislative body who is charged with developing policy recommendations for consideration by the Board of Commissioners. You are appointed because you are biased, because you are knowledgeable, because you can bring different points of view. This Board of Commissioners has commented enumerable times of how valuable they find your discussions much more than your votes, the discussions is what the Board focuses in on because that gives them insight into the issues that are presented. Now because you're a legislative body the Appearance of Fairness Doctrine doesn't apply. The Appearance of Fairness Doctrine was originally a court created doctrine which was subsequently enacted by the legislature which is intended to ensure that decision makers in quasi-judicial proceedings are not only fair in fact but appear to be fair, and under the rules of the Appearance of Fairness Doctrine you would not be able to sit, in fact I would venture to say that many of the Planning Commission members on many of the cases that you hear would arguably run afoul of the Doctrine. The State legislature felt it very important to make it crystal clear that the Appearance of Fairness Doctrine did not apply to legislative proceedings, but that does not mean that there aren't limits. There can be conflicts, in fact, that preclude a member of this body from participating in a decision.

Now Commissioner Moss and I did spend a considerable amount of time on the phone this afternoon and the upshot of it was that I couldn't get him off of the hook that he's on in terms of trying to decide what he ought to do under these circumstances. My advice to him was the fact that you're dealing with a neighbor, the fact that you're dealing with an issue that you have strong opinions about, the fact that you may have outside knowledge about

the facts relating to a particular parcel beyond which has appeared by testimony in this hearing, none of those are grounds to disqualify and a Commissioner shouldn't step down because of those issues. At the other extreme, if a Commissioner owned land is at issue or if a Commissioner has a contract, service contract with a property owner, the compensation under which turns upon whether or not a recommendation from this body is accepted or not accepted, if there's that kind of direct link between a Planning Commissioner's financial interest and a proposal that's before you, then the Commissioner should step down and should not either participate in the deliberations or in the vote. Indeed the court cases at least under Appearance of Fairness say the Commissioner ought to leave the room.

The facts as you've related them to me don't fall within either of those bookends, we're in a much more murky area. The existence of a professional service contract between your firm and the owners of property that are subject to this may lead to a conclusion that you have a financial interest of some sort in this, in these proceedings; on the other hand, the nature of the work that you're doing is such that if you successfully do the work the result of these proceedings will be irrelevant to whether or not that property owner can accomplish what they're trying to accomplish through you. So it's a murky area. My recommendation to you was to step down and not participate in those cases and I told you that recommendation was simply based upon municipal attorneys conservative natures in terms of avoiding an issue where it's avoidable. You need to weigh that against what you believe the importance is of your participation in these proceedings and what you can bring to these proceedings. I can't advise you to step down and I can't advise you not to step down, it's simply not a clear case of conflict or no conflict.

MOSS: Okay. Thanks, Rich, I appreciate that. The decision that I've made in all three of these cases is that, first, I do have a contract in two of these cases, I don't in the other one. The outcome of this proceeding in no way will affect whether or not I go ahead with the work in either event and we're not talking about much money at stake. Having said that, there's still some concern, I'm sure, out there about the integrity of the process if I participate and particularly if I vote. What this really gets down to I think is for me is a difficult choice that I'll solve probably about as well as Solomon did and that's I'm going to split the baby, I'm going to stay here and I'm going to participate in the discussion and I'm going to refrain from voting on all three of these cases. I'm going to do that after having laid all this out in public. Primarily to retain the integrity of the process I want to tell you what all my biases are and where I come from, and I also want to do that for the benefit of the Board of County Commissioners so they understand where I'm coming from. My decision, though, is that I will stay and participate in the discussion here because I think that I bring something to that discussion that otherwise would be omitted, but in the for what it's worth I'm queasy enough about this even recognizing that probably there is no strong legal jeopardy for the process no matter what decision that I make, I don't think it will affect the overall outcome or the validity of the County Commissioners' decision, but I'm going to stick it out but I will refrain from voting.

WRISTON: Okay. Everyone got that out of their system. Anyone else have any discussion on any of this before we move on? All right. Let's start with Map Sheet 1. Bob.

HIGBIE: Okay. Again, the staff report and the matrix that we provided at the prior to the

original hearing have the detailed pieces of the staff recommendations. I am going to just be referring to a couple of the key factors in our recommendations and move this along. In Area 8 on Map 1 we have two pieces of property, one is owned by the State and one is owned by Mr. Munger. Both of them have prime agricultural soils, the percentages are in the matrix, and they also have prime forest soils, and our recommendation is for no change. The recommendation for no change is because those parcels are surrounded on three sides by nonresource zoning. As you recall we added several criteria to the task force criteria in our original recommendations. If it was surrounded by on three or four sides with nonresource zoning, we felt that it was committed to some other use other than resource, and also if there was a public waterline within 1500 feet we gave consideration to that.

Area 9. Area 9 is the Uhasczes and the Diamond B Ranch. They are -- in terms of prime ag soils they have, a majority of the parcels are in prime ag and all of the parcels are, all of the property is 100 percent prime forest. We're recommending Forest Tier 40 which is a 40-acre minimum resource zoning for those two parcels.

Area 20. These properties are owned by Hambleton Brothers Lumber, the DeLoaches and the Goodwins. They're all recommended for Forest Tier II and they all have the majority of the properties in prime forest soils and our recommendation is that they go to Forest 40 which is a 40-acre minimum lot size.

The last area is Area 23. Area 23 has a number of parcels that were included in our recommendation to change and a number of parcels that were not recommended for change which are very small and they're kind of in the center of the big block of the area being considered. The ones that we are recommending for change are three parcels owned by Aldrich, Wheeler and the State Forestry Board. All of them are predominantly in prime forest soils and we're recommending Forest Tier II which is a 40-acre minimum lot size.

WRISTON: Okay, thank you. Questions or should we vote on -- do you want to vote on parcel 8 first or Area 8 first? Get that out. Any questions on Area 8?

BARCA: I'd just like to make a comment in regard to the criteria that staff used. Specifically around the aspect of parcelization I found staff's analysis to be extremely conservative in their approach. What I felt like after doing the review they went to an extreme to make sure that they erred on the side of caution and put the aspect of parcelization much higher in their criteria for a weight ranking than after visiting the parcels I could really justify. I find by going out and looking at the parcels and the adjacent parcelization around them, in many cases the parcels are there, homes in the rural area I think have to expect the aspect of resource land type activity taking place adjacent to them, but I could tell that staff spent a lot of time trying to be extremely cognizant of the fact of that abutment of rural homes and in many cases threw out parcels that had very good soils or in some cases were obviously in the current use of either forest practices or some type of agricultural practice. So I think when we go through these things the work that staff has already done to weed these out we're probably really already gone past the boundary of what would be iffy in that regard as far as parcelization from what I've seen. So the reason I'm bringing this up is just to get out the aspect of they've gone to a lot of work in my

estimation right up front to be aware and to give some sensitivity towards the aspect of the surrounding lots.

WRISTON: Okay. Thank you.

MOSS: I guess I'll -- Ron, as often happens I'm a voice in opposite point of view and that's that I don't think that the issue of parcelization relates to the impact upon the smaller parcels that surround the property. I think the intent of that criteria, at least in GMA, was to consider the effect of the parcelization on the resource land, on the ability to manage this land for long-term commercial significance, when there are many smaller parcels and many many incompatible uses around that property that the -- I don't think that there's any real importance given, at least I hope staff didn't give much importance, to whether this land might have a negative impact upon the residential properties surrounding it. I think that would be a flawed reason for doing any zoning at all because any of these parcels, whether they're rural or zoned resource, have a right to be used for, the owners have a right to use that land for timber production or for farm land and there's little that the resource designation does to affect that in any way except to trigger a requirement that any further land divisions that adjoin the resource land end up with a note on the plat that says that you're close to resource land and you're going to be subject to smells and noise and dust and that sort of thing that's related to that.

So it might discourage further parcelization in some way, but really to me the real reason to look at parcelization is is that we are trying to determine whether or not these are lands that are important, important elements of the land base upon which these resource based industries depend. If it's, if we have a great deal of parcelization around these, it's very unlikely that they can continue long into the future without adverse effects from this kind of encroaching development.

BARCA: Incompatible use, adverse effects, can you be more specific about what you're talking about?

MOSS: Well, specifically what I'm talking about is that it's pretty clear that anybody that's going to engage in timber farming has a considerably heightened risk of losing all of their investment to fire. When we have lots of small parcels, lots of homeowners, lots of other activities that might generate those fires immediately around them, that's a huge concern for people who are big timberland owners. If we look at the whole northeastern corner of Clark County, you know, there's no question that it's better protected from wild fires than many of these parcels that are surrounded by residential, rural residential development, there are just too many potential sources of fire that result from that kind of development. I think if you talk to any of the professional tree farmers in this county, they will tell you that that puts them in real jeopardy.

And there are other reasons. If we're talking about farm land, for somebody to be able to continue to operate a piece of farm land that's closely bordered by rural residential property complete with the kids who put their trash over the fence and then your hay bailer picks it up, you know, there are lots of things like that that come with having this kind of development adjoining resource land. That doesn't mean that we can't continue to have farming and farm forestry activities in this county, but we've got to recognize that if we're

setting aside land to have long-term commercial significance for those purposes that we can't fail to take those things into account.

WRISTON: Yeah, I mean I'll say as a resource, you know, as a resource company that our, by far our greatest challenge and of course we're, you know, perhaps more incompatible than forestry or farming, but by far our greatest challenge is parcelization or urban development or anything anywhere near our resource. It's by far -- I mean it, operational aspects aside it's the challenges that the incompatibility or perceived incompatibility to present and I think forest has that too when they want to go in and they want to log off what neighbors have deemed to be their park and or their view, and farmers that want to farm when they create dust or fertilize or do different things, I mean that's, I mean there is an incompatibility there. But anyway. Do we want to any other -- go ahead.

DELEISSEGUES: Well, I'd just like to make some comments too. My conclusion on this process, I guess, after studying all the information that was presented to us at the last hearing and everything that's been mailed to us subsequently is that a lot of these parcels seem to me to be edge parcels, they could really go either way. I mean you could make as good a case if they were 40 to go 5 and 10 as you could going from 5 and 10 back to 40. One, under the heading of no good deed goes unpunished it seems to me that the reason that we're looking at these particular parcels is because the people have not subdivided them, they have kept them in the kind of you might say pristine forest environment that we like to see when you go on your Sunday drive and say, ah, there is some pretty rural area. Now if they had subdivided them we wouldn't even be discussing them, but since they haven't and they've maintained them in a really I think done a good stewardship job, done the kind of job on the property that we would hope that all landowners would do, it seems to me like we're penalizing them for it in a way.

I can see in looking at all of them they're all a little different and certainly some of them could go either way, there might even be advantages to some of the landowners to downzone. I don't know that to be a fact but it possibly could be. So I've been struggling with it. I could, you know, you could recommend a vote either way on these things and probably not be too far out in left field, but I guess my conclusion is that almost all of them whether we go through them parcel-by-parcel or not should probably stay the way they're zoned and not be downzoned. And I started out the other way, I started looking at the reasons why they should be downzoned and I really couldn't find that many. When I started looking at it from the other side why they should not be downzoned, it seems to me there's many good reasons why they shouldn't be. There may be some exceptions in here that I'd certainly be willing to discuss as we go through them one by one, but I think I'd have to have a pretty convincing argument to vote for downsizing on any of them.

WRISTON: Okay. Thanks, Dick. Anyone else? Carey.

SMITH: Well, as a wildlife biologist I have to admit that downzoning this will not make a really significant difference in the wildlife resource for sure. I just I see this a little bit as tokenism, these little plots here and there. I've listened to these families and this is investments they've had for 30 or 40 years and from the resource point of view, which is always my point of view, I don't see what we gain by downzoning most of these as worth the human loss. And we've heard again and again that the infrastructure and farming is

not here anymore. I was saying earlier telling these people they have to continue to farm without making any money at farming is similar to telling people they're zoned within an industrial area and they have to continue to go to work every day even though their factory is not making any money and they're not going to get paid. This is a little bit hard for me to go along with most of this downzoning, most of it just due to a remand. There are a few in here that I can see that maybe they should stay the way they are, but like Dick, I think it's darn few.

WRISTON: Okay. Thanks, Carey.

MOSS: You know, I think if I could just add one thing, it seems to me that really we need to go back a little bit to the discussion that we had at the last Planning Commission session and that's that I asked the question what was it we're trying to accomplish here and I think that really is an important question. I think what GMA contemplates is that that lands that make up the land base for these two important industries shouldn't be eroded away by development, that we need to identify and protect those lands so that those two industries can survive. I voiced an opinion on several times in the past about the future of agriculture here in this county, you know, it's my opinion definitely that it's on its last legs, we don't have the infrastructure here for agriculture anymore, all the implement dealers are gone, you can buy a John Deere riding mower and a, you know, very small diesel tractor here, but really those are for rural estate use, not for farm use anymore. That doesn't mean that there aren't some farms left in this county. I happen to have the privilege of living next to one of the full-time farmers that are few full-time farmers that are left in this county and I would like to see him stay and keep that farm operating. I know that he can do that because he owns it outright. I know that nobody else could do that if they had to pay him for his land. I mean that's clearly the economics of this situation here.

Having said that, I think all of us recognize the importance of keeping farming, what's left of it here, as long as we can in this community. It adds a lot to our quality of life, those open spaces are a great deal of value to all of us, but this isn't about zoning open spaces, this is about protecting those two resource based industries and the question, really, that I would pose to the rest of the Planning Commission members here is does this kind of zoning offer the protection that is needed to ensure that these folks can survive. These folks, I mean these tree farmers, these landowners, these farmers, that they can continue to do what they're doing with their land and I have to tell you it's my informed judgment that this offers nothing in the way of assistance to help them do that.

Just one more point. It seems to me that that's not always the case, I'm not at all an opponent of resource land zoning, I think that we very appropriately zoned the northeast corner of Clark County the industrial forest land as industrial forest. I think that farm land that, of the nature that we have in the Willamette Valley of Oregon is appropriately zoned for exclusive farm use. If we do that then those farmers that are zoned like that can continue to farm and they'll be protected from the kind of encroaching development that I mentioned before that has a dramatic impact on their ability to make a profitable venture out of farming. What's missing here in this county, and has been missing from the very beginning of this whole discussion about resource lands, is a united effort by the owners of those lands who are seeking protection for those lands through the zoning procession. Unlike the Willamette Valley where there are a great number of farmers who enjoy that

kind of protection think that it ought to remain because they do protect each other, that kind of constituency or that kind of advocacy for resource land zoning has been missing from the very beginning of this discussion and the problem is that we waited far too long, even my good friend Mr. Schumacher has been an advocate in the past of that type of zoning, we're simply 30 years too late, we waited until all the land was eaten up and parcelized, eaten up by development to the point that there are very few of these farm parcels and very few of these tree farm parcels that don't already suffer significantly from encroachment from rural development.

I think what we're really doing is singling out these islands that do remain and punishing these folks as Mr. Deleissegues said for having been the last holdouts against development. It is not my desire in any way to do anything that will encourage further division of these lands, but I think the question that we have to ask ourselves here is does this proposed downzoning of this land accomplish the purpose that GMA contemplates, are we helping preserve this land base or are we simply penalizing the owners. Thanks.

WRISTON: Okay. Well, I think that was good, I think that's good discussion, but I do think we need to move forward, though, and start looking at these parcels or it's going to be a long -- I think with that backdrop, that's good discussion for the Commissioners to hear, so I think with that, you know, is the background or the backdrop as we move through here, hopefully we can move, you know, fairly, fairly quickly, we've got a lot of parcels to look at so.

LOWRY: Might I make a suggestion given at least my read of four of the five Commissioners if it --

WRISTON: Well, now you're assuming mine.

LOWRY: You've made a few comments. It may be that we can move this along by I guess a general motion as to each map not to designate or not to accept the staff recommendation and then hear any disagreement with that suggestion. I mean Bob leaned over here a while ago and said this could be real fast because you could take a vote given your discussion on all the maps at the same time. I'm not suggesting you do that, but I don't see a need to go through parcel-by-parcel and have this same discussion over and over again.

WRISTON: Yeah. No, that's what I was getting at, although I did, it's going to be a little troublesome when I look at Map 1, for instance, and I look at those parcels in Area 20 and the summary of issues and see that we've had no testimony and assuming they've been notified and look at the parcelization around them, and then of course this deal here that talks about the soils and all, and I wonder whether that's not an appropriate designation. So I'd, I don't know. I mean what do you guys think in terms of, not just on parcels, but I'm just throwing that out, but how do you guys want to proceed?

DELEISSEGUES: Yeah, I think we could do it by map by area.

WRISTON: You want to just do it map by area and just try to see how quickly we can get through it in terms of --

DELEISSEGUES: Let's try it and see.

WRISTON: Try it and see how that moves. Well, let's start with **Area 8 on Map 1** because that's what staff recommended not change. Any discussion on that or any disagreement?

DELEISSEGUES: None.

WRISTON: And do we need to do roll call on each of these, then, if we do it by or can we just do all in favor and --

LOWRY: I think I would do a roll call only if there is going to be a benefit from the roll call in that there is a clear split on the Commission.

WRISTON: In other words if there's any disagreement?

LOWRY: Not any disagreement because we already I think from it sounds to me like in general --

WRISTON: A little bit --

LOWRY: -- you're going to be 4/1.

BARCA: There's a high probability it's going to be 4/1.

LOWRY: And so I don't think you need to take a vote every time to keep getting the 4/1s, but if there's more of a split than the philosophical split --

WRISTON: Then that -- okay.

BARCA: Well, let me help move that part along then, I am going strongly with staff recommendation all the way down the line as I've reviewed the parcels, so the places where staff has recommended no change --

WRISTON: Okay, that helps.

BARCA: -- I won't be disputing any of those.

WRISTON: And any of you guys disputing it? So let's just "all in favor".

LOWRY: Well, then why don't you make that as to all the maps because I, and then we don't have to deal with --

WRISTON: So do that as to all the maps and then --

LOWRY: Assuming that's within --

WRISTON: Okay. Well, let's just look quickly if you guys, everyone's already reviewed it.

Is there any disagreement with staff's recommendation on no changes within all the maps?
Thank you. That's a good suggestion.

DELEISSEGUES: No.

MOSS: No.

BARCA: No.

WRISTON: No? Okay. Do you want to do a roll call on that or just a all in favor?

LOWRY: I don't think --

WRISTON: There's no need for it, okay. All in favor.

EVERYBODY: AYE

WRISTON: Okay. Great. So that we've recommended to the County Commissioners on where staff has recommended no changes that that move forward unanimously. So that moves things along a little bit. All right. Area 9 on Map 1, my guess would be that we've got a 4/1 split but, no, okay.

DELEISSEGUES: Now that I've said all that, I've said there are a couple on this sheet, one that I could go along with staff.

SMITH: Yeah, this is one that I can go along.

WRISTON: Okay. All right.

SMITH: The lower square, that would be the Diamond B Ranch? The one where --

WRISTON: Can you kind of help us out with, is that lower square Diamond B?

HIGBIE: On Area 9 the larger 80-acre parcel is the Uhacz's, the smaller 40-acre parcel is Diamond B.

WRISTON: Okay, that's a good point.

BARCA: You don't accept the upper but you think the lower?

SMITH: Yeah, the lower I would accept just because of the anadromous fish implications there.

MOSS: But, whoa, whoa, wait a minute. Carey, it seems to me that this is land that might provide that kind of protection. And I wouldn't disagree with that, but it also seems clear to me that that's the wrong reason for --

SMITH: That's true, that isn't the reason for this remand, you know.

MOSS: Right. That this is about determining whether these are lands of long-term commercial significance for resource production.

SMITH: But we are allowed to bring our biases to the meeting place.

MOSS: Yeah. Yeah, we are. Right.

SMITH: Good. Then I will exercise my bias.

WRISTON: Okay. Good. I can see everybody coming about. Dick, you had, what are your, you had some quick comments on it?

DELEISSEGUES: Well, looking at the surrounding area as particularly to the east, it looks to me like it's not an edge piece that's got significant development surrounding all of it in my opinion. I think that I could go along with staff recommendation on Area 9.

WRISTON: Okay. While Lonnie's thinking all of this through --

MOSS: Well, I'm, you know, I'm troubled by the presence of so much critical land here and wonder how that fits into the designation for forest use.

WRISTON: I don't know.

MOSS: Well, it doesn't fit very well. This says wetlands 100-year floodplain.

WRISTON: Yeah, well, that's a good point. I guess I'll throw out, I mean from my standpoint it seems to be, and, you know, I just want to, I like these aerals because whether they're developed or not I think it is surrounded by a fair amount of parcelization. And I think back from my experience in annexation, and maybe elsewhere, I also like when you talk about edge pieces, I like this has no relevance and I think we're talking about biases, but that just seems like it just, it seems like a token piece, to steal one of your words, because it just kind of sticks out there to the side. I mean you can obviously see the resource designation there to the what I guess would be the east and then that squares off nicely, but this just kind of goes off to the side and they seem like pretty small, pretty small pieces and they're surrounded by a pretty good parcelization on all sides and then what Lonnie just said so.

MOSS: Well, the other thing, of course, we are talking about a very low percentage of forest cover.

WRISTON: Okay. Anyone else want to throw in there?

DELEISSEGUES: Well, if I'm reading this right, one of these parcels has 4.3 percent critical lands and the other one has --

MOSS: 56.

DELEISSEGUES: -- 56, so I could agree with Lonnie on the 56.

WRISTON: This says 66.

MOSS: 66.

WRISTON: That's all right you guys.

MOSS: Whatever it says. Yeah, I can't read that.

DELEISSEGUES: If they'd put white on black it would be okay, but black on black is hard to read. 66.

WRISTON: Just can't give them a break.

MOSS: Again, you know, we're talking about the other parcel has only 50 percent forest cover on it.

SCOLNICK: That's the entire area. Excuse me. That's the one the forest cover area that's in the gray bars is for the entire area, not just that parcel.

WRISTON: So the entire area has 50 percent forest cover.

LOWRY: Which may mean the parcel, the upper parcel has less than 50 percent.

MOSS: Yeah.

WRISTON: Okay.

DELEISSEGUES: Yeah, they're really wetlands too.

WRISTON: Any other --

DELEISSEGUES: I have to agree with Lonnie.

WRISTON: Yeah, that's good discussion. Ron? Carey? Okay. Looking at you again, it seems we have a split, we better do roll call I think. Yeah.

SMITH: Well, I don't have a -- I mean I've got a problem with the Diamond Ranch portion but not the other part of 9, so we'd almost have to split the property for those.

WRISTON: Well, we'll split, yeah, we can split property on it. Can we --

LOWRY: Yeah, that's fine, go ahead and take a vote. The Board's going to and religiously reads your discussion and as I indicated before it's your discussion that's important, but this would be an appropriate one to take a vote on or maybe simply allow Carey to just specifically indicate why he would include the southern portion and it's clear from the record then what your recommendation is, you have a majority of the quorum that would

say no.

WRISTON: Okay. Yeah, I can, I mean I'll just -- and what I could do I could just summarize where I think everyone is and just someone can correct me if they're wrong. If that, you know, I just want to make sure that it's clear that we do have a -- do you want to more clearly state your --

SMITH: I just wouldn't like to see increased parcelization on the one that rides on either side of the Lewis River if we can avoid it.

WRISTON: So that's the smaller parcel, the --

SMITH: That's, yeah, that's the Ranch.

WRISTON: Diamond B Ranch. Okay. And then so the upper parcel you disagree with staff's --

SMITH: Yeah.

WRISTON: -- designation. Okay. So I'm just going to sum it up here. Carey and Lonnie and Dick and myself, so that's 4, disagree with respect to the upper parcel. Ron, you agree?

BARCA: I agree from the standpoint that with the abutment to forest land now and the obvious capability of the property to be put into the forest designation it seems wholly appropriate.

WRISTON: So we have 4/1 there. And the lower parcel I would say that Ron and Carey, you both agree with staff there.

SMITH: It's a combination of the anadromous fish, which is my bias of course, and the fact there was no testimony here so why should we push it.

WRISTON: So we probably have a 3/2 there. Okay. Sounds good. Area 23. I just had a question though, what is all that red, what's that red stuff in amongst all that yellow? I know what the yellow is but --

HIGBIE: The red stuff are lines that were picked up as a result of trying to -- just ignore them. They're parcel lines.

WRISTON: Oh, do you want to do 20 next? That's fine. Okay. They want to, yeah, okay, we'll follow that, that's fine, I was just kind of following the map. All right. Let's go to Area 20. That is three parcels, owners Hambleton, DeLoach and Goodwin, and I don't believe we've received any testimony on those. That's the one that I believe I expressed that I felt staff's recommendation was appropriate.

HIGBIE: On Area 23 there was some testimony from the State Forest Board on Area 23.

Is that the one we're on?

MOSS: We're doing 20.

WRISTON: We're talking about Area 20.

HIGBIE: I apologize.

BARCA: We've decided to go in numerical order.

WRISTON: Any comments? Lonnie? Anyone? You like staff's recommendation? Stick with it?

MOSS: No, I don't.

WRISTON: You don't like staff's recommendation.

MOSS: For the reasons I stated before.

WRISTON: Just trying to trick you there. You like staff's recommendation?

DELEISSEGUES: I do.

WRISTON: And, Ron, do you want to say anything more on that or Carey? Anyone?

BARCA: The power lines, the amount of development that's in the area, I think the capability of producing is there.

WRISTON: Carey.

SMITH: I'll go along with staff on this one.

WRISTON: Okay. So I think at this point we were 4 to 1 the other way on 20. So **4 to 1 going with staff's recommendation**. Area 23. It's a sloppy line but there's my biased, I don't know why, I'm just, I like clean lines. So what -- okay. So the parcels that what's in the middle where all that red stuff is, I'm ignoring the red stuff, but what's in the middle of all those --

HIGBIE: Those are small lots with houses on them.

WRISTON: That's in the middle of all those --

HIGBIE: Yes.

WRISTON: -- squiggly yellow lines --

HIGBIE: Yes.

WRISTON: -- are small lots with houses?

HIGBIE: Yes.

WRISTON: Okay. Then I don't like it.

BARCA: You don't like it?

WRISTON: Well, I mean right in the middle, I mean it's just again they've --

BARCA: It's got a road that goes through it and these are two sides of a hill with a road being down on the side and they're small houses attached to each side of the road, the lots are small and this is what happens when you don't designate and protect your resource land when it's appropriate is you get these kinds of little parcels that come off of it, but these are also big chunks of forested land that when you drive through them you can see that for the most part they've grown back in a mix of replant and wild production but have the capability of producing.

WRISTON: Well, they're surrounded, though, quite a bit. I mean most of them are surrounded on three sides by, well, four sides, some of them are surrounded by four sides if you consider those homes in there. Well, and the DNR, I mean, yeah, the DNR lands go to the school funds, is that about right?

HIGBIE: Correct.

WRISTON: Although they're saying, they're taking it out of, they want it out of Forest does that still go to the school then?

SMITH: They want the option to take it out of Forest.

WRISTON: That would still go to the school funds whatever they do with it?

HIGBIE: Uh-huh.

WRISTON: Carey, where are you at on this? I think it's still worth expressing if you've got -- Lonnie, you want to jump in? Where are you at?

MOSS: Well, I think it's notable that we have the Department of Natural Resources who, you know, who is the State's land management board for forest lands as an owner of land under consideration here and they're saying in quote these parcels do not fit the criteria for commercial Forest Tier II lands.

WRISTON: No, they wanted to develop (inaudible) whatever it was.

MOSS: These are small scattered parcels that are not significant forest lands in their view.

BARCA: So how come when the Department of Natural Resources sends us an authoritative letter that says this we take that at face value, but when WDOT tells us that

we can't lower the standards up at Salmon Creek because it's going to be dangerous for the people we go (inaudible sound). I mean that's not right and we just breeze over that one. But one authority is very good and the other one we just don't carry much weight with it.

MOSS: Well, okay, that's a fair question, Ron, and the answer to that is that there are things that can be done about WDOT's concerns, there's very little that can be done to alleviate the effects of rezoning this land.

LOWRY: I've got just a bit of history. The DNR weighed in heavily during this process their first go-around. It was clear that -- and in some of their parcels they were designated away from resource and some weren't, it was clear that DNR for their purposes they're looking at the industrial size, industrially located timber parcels, and these don't fit their criteria. That in and of itself, though, does not mean that it, that these parcels don't qualify for Tier II designation. I mean I'm not arguing one way or another as to these ones, but I think you need to be aware that DNR's perspective is they want to see the, actually the 80-acre minimum, that's what they consider "forest land" under their criteria which goes further than or is more restrictive than the County's plan.

BARCA: So they just are asking not to have to manage that small of a designated parcel anymore?

LOWRY: Well, they're under a trust obligation and to maximize the yield and where they don't see this as industrial forest land under their criteria they want a maximized return by selling it off for development.

DELEISSEGUES: Or trading it.

BARCA: As opposed to selling it as Forest Tier II --

LOWRY: Yes. Because they can get --

BARCA: -- because they can't maximize their return?

LOWRY: Yes. They have a, and, again, they're acting under a fiduciary obligation because it's trust land and they made that clear to us when they testified in the earlier hearings.

MOSS: Well, that is, of course, one of the criteria that we're supposed to be considering here, and that's the possibility of more intensive uses of the land and definitely the value under those more intensive uses, and clearly this is land that DNR has decided has a whole lot more use or a lot more value, which is an astute observation, one that we could probably apply to most of the lands in Clark County, and that's no joke, I think we've given far too little recognition to that.

DELEISSEGUES: Yeah, I think DNR's looking at this, could be looking at this, anyway, as land exchange base, it would be more valuable in an exchange situation if it were zoned the way it is than if it were downzoned.

MOSS: Well, one of the things that DNR has made very clear is that they don't like to administer these smaller more isolated parcels because they are very difficult to handle and administer because of the impacts of the surrounding development, they don't want to be doing that, they want the larger forest blocks that are genuinely protected by their zoning from encroaching development.

BARCA: And that's their decision as a management organization which doesn't say that the land isn't viable or that somebody else wouldn't be able to take 150 acres and do something very constructive in a resource fashion with it.

MOSS: No. Again, I'll ask the question, Ron, what does this proposed zoning do to promote the economic viability of this land for timber production, in my view nothing.

DELEISSEGUES: No, I agree.

WRISTON: All right. Carey, where are you at, bud?

SMITH: I'm with the staff recommendation.

WRISTON: You're with staff recommendation. Okay. Ron, with staff recommendation?

BARCA: With staff recommendation.

WRISTON: Lonnie?

MOSS: I'm no.

DELEISSEGUES: No.

WRISTON: And I'm no. So we have 3/2 against staff's recommendation. All right, we're through Map 1. I think we're going to move quicker on this one.

DELEISSEGUES: I can make Map 2 easy, from my perspective I'm against all of them. Vote no on every one.

WRISTON: The reds inside the yellows again, are those areas that we're excluding?

HIGBIE: If you were voting globally on all of the --

WRISTON: Right. So the reds within the yellows though, they are ones that are excluded, so we are excluding these slivers --

HIGBIE: No. The reds that are within the yellows are included in the recommendation. The GIS --

WRISTON: It's just picking up, okay. I just wanted to make sure that we weren't excluding slivers within --

HIGBIE: No.

WRISTON: Okay. Good.

HIGBIE: Do you want a brief review of these or --

WRISTON: Well, I, you know, let me just -- Carey, are you the same as Dick?

SMITH: I'm with Dick on this, yeah.

WRISTON: And Lonnie's with Dick on this. And --

DELEISSEGUES: Or I'm with Lonnie.

WRISTON: Or, yeah. And I think I'm there too. So, Ron, you don't want to change your opinion, but do you want to express some and go through it a little bit?

BARCA: Yeah. I think based on the public testimony on Parcel 16 and Mr. Schumacher's concern about my ability to vote on that one I would **abstain** from recommending anything on that particular parcel, and then I'm with staff recommendations on the rest of the map.

WRISTON: Well, that's true, you were going to abstain too, Lonnie, although we're not really voting, we're just kind of --

MOSS: No.

BARCA: We're not really voting on it?

MOSS: Actually we haven't reached any of those parcels that I'm concerned about yet, excuse me.

WRISTON: Yeah, we have. We're taking the entire Map 16, that was my fault but that's Area 16 and 18 are the ones that you were going to --

MOSS: A misunderstanding on my part.

WRISTON: I don't think it's good. Carey, do you want to, do you have anything to say about why you're doing what you're doing or is it just based on the same?

SMITH: No. I just think that most of these are rather small and they're really not surrounded by resource lands and for my bias resource and wildlife value I think they're limited.

WRISTON: Dick.

SMITH: They're not worth the heartache they will cause.

WRISTON: Dick.

DELEISSEGUES: Yeah, I didn't support the staff recommendation because all of these parcels are fairly small, they're generally all surrounded by parcelization and development, not just parcelization but development, and they're scattered, it looks like spot zoning and I don't think we want to get into that, so therefore my recommendation to leave it as is.

WRISTON: Okay. And I agree, they are generally fairly small and they are surrounded by a fair amount of parcelization. So I think we've got a 3 recommending not to recommend staff's recommendation and 2 abstaining, which who cares how the conflict would be they cancel each other out anyway even if they did vote so it's a 3 to --

BARCA: Yeah, just for the record, I'm abstaining on one.

MOSS: And so am I.

WRISTON: Oh, abstaining on one, I'm sorry. You're right. You're right, I'm sorry. You're abstaining on one too.

MOSS: I'm officially abstaining on the Schumacher parcel, the Kullberg parcel and the Wirtanen parcel.

WRISTON: Oh, does Map 2 spill over here? All right, that's fine. You guys got that.

SMITH: Well, I guess my other reason is looking at these things I just don't believe making this decision will significantly affect agriculture or timber harvest in the county.

WRISTON: Okay. So I guess with respect to the Schumacher parcel it's 3 with 2 abstaining. The Kullberg parcel it's 3 to 1 and 1 abstaining. And with the --

BARCA: Wirtanen.

WRISTON: -- Marinier parcel, I'm pronouncing that wrong, but it's 4 to 1. Work?

HIGBIE: Yeah.

WRISTON: All right. That went quick. All right. Let's take a five-minute break.

(Pause in proceedings.)

WRISTON: Okay, call the Planning Commission hearing back to order, please. All right. Where we left off I believe puts us on Map Sheet 3.

HIGBIE: Map 3 has no recommendations for change on it.

WRISTON: Correct. So that -- you guys all tracking along here. I don't think we have anything to discuss there so we're moving along pretty well. Map 4.

HIGBIE: Map 4 there are two areas -- well, Area 25 is the only area on the map where we're recommending a change, that's in the lower right-hand corner of the map, and the Pehlkes own 50 acres, First Indy Bank owns 67, both of them are being recommended for a change to agriculture which is a 20-acre minimum. The Pehlke property is 50 acres and the First Indy Bank property is 67 acres.

WRISTON: Okay. All right. We're on Map 4 and the area is 25 and we've got several different parcel owners or owners of the parcels. And did we get comment on that, on any of those? I don't see that we did get any comments on any of those --

HIGBIE: No.

WRISTON: -- and they were all notified, but for what that's worth, I know it's not necessarily worth a whole lot but, okay. Everyone got a chance to take a look at that and -- Carey.

SMITH: I'm still looking.

WRISTON: Okay, take your time. Who wants to start? Lonnie --

MOSS: Oh, I'll just --

WRISTON: -- you want to point out some things?

MOSS: Yeah. High percentage critical lands on these parcels that are recommended for change, I'll point out, as I have on several occasions before, I think that I would have an extreme amount of difficulty recommending addition of agricultural land in this county which is as an ag industry on its last legs.

WRISTON: Okay.

DELEISSEGUES: Do you want me to go?

WRISTON: Dick, sure.

DELEISSEGUES: Well, I think looking at the staff summary here, summary parcel information, it looks like really small parcels here with hydric soils, two of them say they're large lots, Number 509 on the end and then 474 on the end, and it just, you know, again, another case of what good is it going to do to downzone these two parcels when they're pretty well downzoned already, they're so small and they really are surrounded all four sides by parcelization in each case so therefore I would vote not to downzone them.

WRISTON: Okay. Carey.

SMITH: I'll go along with Dick on this.

WRISTON: Ron.

BARCA: I think staff's review of the property and the aspect of going out and looking at it in comparison to either what it's in use of or capable of doing I can continue to support staff's recommendation.

SMITH: There is -- and this is another one where I'm having a hard time going with the whole thing, we've got one that's 11 percent prime soils for forestry and another one that's 89 percent and another one that's 42 percent and it's hard to, I guess it's hard to treat them all the same way as far as the forest potential.

WRISTON: Well, some of the ag --

SMITH: Oh, that's the ag, yeah.

WRISTON: Yeah. The forest potential are 78, 91, 89 and 11.

SMITH: Yeah, 11. The largest parcel is 11?

MOSS: Right.

WRISTON: 11 percent, right.

DELEISSEGUES: Not much. That means 89 percent not suitable, not prime.

MOSS: Well, again, you know, these are very high percentages of critical lands to be designated for resource use.

SMITH: Yeah.

MOSS: The net effect of this is not dramatic. I mean most of this is already Rural 20 anyway and we're talking about a conversion to Ag 20 so.

SMITH: Well, that's true.

WRISTON: Ron, do you have anything to add or did you already add, did I already, did you already throw in?

BARCA: Yeah, you've already run through this one time.

WRISTON: Did I run through that. Carey was back in -- okay. Carey was --

HIGBIE: So far we've got three of you that have indicated something.

WRISTON: Right. And Carey's struggling over there.

SMITH: Yeah, I'm struggling with the First Indy piece. I think I --

WRISTON: The First Indy piece.

SMITH: I think I will, I'll change my vote, I'll agree with staff on the First Indy piece and not on the other two.

WRISTON: Three?

SMITH: Yeah. All three, right.

WRISTON: So the First Indy piece is, just to clear it up, to make sure that's the one to the south there, the larger one, the largest one?

SMITH: Uh-huh.

WRISTON: Is it the whole -- is it just --

HIGBIE: Is that what you're referring to, Carey, the whole area here?

WRISTON: Or just the lower one?

SMITH: Just the lower one.

HIGBIE: Just the lower one.

SMITH: Yeah, the 67-acre piece.

MOSS: That's also the one with the most quality soils.

SMITH: Yeah. No, that's going -- did I say what I meant or did I say opposite from what I meant?

BARCA: I think you said it backwards.

SMITH: Okay, I did say it backwards. Yeah. Does that make more sense?

HIGBIE: I'm lost.

WRISTON: Now I'm lost too, yeah.

MOSS: I think Carey wants to disagree with staff on the First Indy piece.

SMITH: Yeah, that's true, and I'll go along with staff on the others.

WRISTON: The --

SMITH: 67.17.

WRISTON: Oh, and then you're going along with staff on the others --

SMITH: Yeah. Right.

WRISTON: -- on the other three?

SMITH: Yeah.

WRISTON: Okay. And I disagree with staff on all of them again for parcelization, a lot of critical lands and indications of, you know, just mixed scrub/forest, you know, crops, question mark, on the one that has the 11 percent prime, prime forest. So I think where that leaves us is with the First Indy piece we are 3 to 2 not recommending staff's recommendation. On the other three pieces we are 4 to 1. No, did I get that wrong?

SMITH: No, it's the other way around.

WRISTON: I got that wrong. I'm sorry. Back up. I'm backwards now. On the three pieces --

SMITH: We are 3/2.

WRISTON: -- we are 3 to 2 and on the First Indy piece we are 4 to 1. Thank you. All of which are not to recommend staff's recommendation, all of which carries forward a nonrecommendation.

DELEISSEGUES: A nonrecommendation.

WRISTON: A nonrecommendation, they understand what I'm saying. All right. Map Sheet 5, we've got three areas it looks like.

HIGBIE: Yes.

WRISTON: Area 21, 23 and 25. Is there anything you want to say about those, Bob?

HIGBIE: Area 21 are, there's four lots, three of which are in State ownership, one is Mr. Lobey. Mr. Lobey has 79 acres, State School Lands are 40, 34 and 38 acres apiece. All four are being recommended for Forest Tier II which is a 40-acre minimum lot size. Mr. Lobey's property has very little of the land in prime forest soils, as is the State School Land on the 40-acre parcel. On the State lands for the 34 and 38-acre parcels there is a majority of the land in prime forest lands.

WRISTON: Okay. That's Area 21 that you're talking about?

HIGBIE: Area 21, yes.

WRISTON: Okay. We did receive testimony from Mr. Lobey and some follow-up written testimony as well.

SMITH: I thought we got both oral and written from Mr. Lobey?

WRISTON: We do, there's a written in front of you right there.

SMITH: Oh, okay, there's no written on the -- it must have come in late.

MOSS: It's here. It was here on the desk when you came in.

SMITH: I mean it's not in the squares.

MOSS: Oh, I see, okay.

HIGBIE: Yeah, I think it was handed in tonight.

WRISTON: Okay.

HIGBIE: Do you want me to do Area 23 as well? I can finish the map up.

WRISTON: Sure, if you'd like.

HIGBIE: Area 23 is in the center right of the map, that is five tax lots. The first tax lot is owned by Jay Niblett, 57 acres, recommended for Forest Tier II, 44 percent of the land is prime forest land. George Reich owns two lots, 38 and 33-acre parcels, both of which are slightly more, have the majority of the land is in prime forest lands and they are recommended for Forest Tier II. And then there are two lots that are outlined in red that are not being recommended for a change. Area 25, which is in the upper right-hand corner of the map, is one ownership, an 83-acre parcel owned by Mr. Holcomb, recommended for Forest Tier II, and that is 66 percent prime forest lands. That's the end of the map.

WRISTON: Okay, thank you. Okay. Well, let's start with Area 21. You guys want a chance to --

DELEISSEGUES: Do you want to start?

WRISTON: What's that?

DELEISSEGUES: Do you want to go?

WRISTON: Sure. Are you ready?

DELEISSEGUES: Yeah. On Area 21 we have a letter on three of the parcels as State School Land from the State Forest Board that we had here tonight and I guess it kind of sums up in the one of the last paragraphs says "the lands you are proposing to rezone do not fit your own criteria. These parcels are no longer capable of long-term management for the production of forest products or other natural resources due to the growth and upscale neighborhoods." So, again, they're kind of refuting the long-term viability, I guess, of forest product production on these lands due to apparently location more than the soil type, even though looking at the aerial photo it looks like at least two of the parcels are fairly well timbered. But I can understand having some experience myself in a land management organization that trying to manage small separated parcels is not economically viable for a State agency like DNR that would probably use these lands more as an exchange base

rather than production and it would be a lot more valuable to them and the schools that they're trying to support thereby if they could keep the zoning as is, continue to operate the timber production as long as they can, but when it comes time for the exchange or sale, they would have much more value than they would if they were downzoned.

The other parcel we also have a letter on and I guess I'm pretty much in agreement where they say the parcel has 2.26 prime forest soils, 2.26 percent and 34.77 prime agriculture soil, both of them less than one-third of the property, two-thirds of their property is not a prime forest or agriculture soil recommended for downzoning. And the rest of the letter I pretty much in sympathy with also has they've done a good job of managing these lands so far and that hasn't been a detriment to that land management by the fact that it's been zoned as it is now and I don't think downzoning right now would have any positive effect on those particular parcels, so I would be against the staff recommendation.

WRISTON: Okay, thanks, Dick.

MOSS: I don't have anything to add to that. Well said.

WRISTON: Okay. Ron.

BARCA: Well, I see three contiguous parcels that DNR says they can't manage that total up over 100 acres and they might just be having a hard time figuring out how to manage that with the idea of what its potential is on the market as opposed to the aspect of whether they're going to get crops of trees off of it in the future. The parcels when you come up to the corner and you survey up there is a lot of trees growing on them right now, you're effectively able to see the aspect of how you can get in and out and do continual crop rotation and the aspect of how much of that clearing in the DNR land has been done with it looks, you know, very methodical. I would think that when you see it, it's obviously in current use as forest practice now. We've had the discussion about long-term aspect of being able to continue using these lands and I think the testimony that we had last time was there were a lot of small lot wood landowners who said it doesn't matter what the zoning is, they're going to grow trees on it, and they'll be able to grow trees on it, and I think that these parcels we're seeing many times it's the same case. We are looking at the aspect of staff's recommendations are based on the aspect to need to designate and then protect resource land and these parcels qualify. That's my opinion and I would recommend to go ahead and accept staff's recommendation.

WRISTON: Okay, thanks. Carey.

SMITH: Now this is one of those I think I can also accept staff's recommendation. One thing, I'm not a forester and the regular practice for these kind of things is clear-cut I would think, they don't select cut these type of things. And I suppose what DNR is having problems with is clear-cutting next to trophy homes where they can't get in there and select cut; right?

DELEISSEGUES: Plus the fact that clear-cutting would have an effect on the drainage and soils and a number of other issues that might affect the surrounding property owners that are really pretty close, a hundred acres isn't much for --

SMITH: But if it gets developed those things will go anyway I mean, Muddy Lake is already pretty muddy there.

MOSS: That's true.

SMITH: I'll change my vote to not go along with the staff on this one.

WRISTON: Okay. I'm also not going to go along with the staff for a number of reasons. A big reason on some of them are I mean we've got some of the lowest percentage of prime forest soils that we've seen tonight, the 2.26 and the .90, and there's a high one, I mean there's one parcel there that's 99.34 percent and obviously that's a pretty good, a pretty good percentage. But then you also look at the critical lands and then you look at the designations and the parcelization, but also the designations, on all the parcels to a great extent you have R-5s and R-10s to the west and east and south of a lot of the parcels, R-10s and R-5s and, you know, so I would imagine that creates a conflict as well. So I think at this point that probably puts Area 21 at a 4 to 1 vote to reject staff's recommendation. Area 23. Lonnie, do you want to start?

MOSS: Yeah, I would. These are we have at least one parcel here that has a very high percentage of prime forest soils, the 755 numbered the fourth one down, the fourth, the fifth, by my count, and all of them are relatively high in prime forest soils, but they're also quite high in percentage of critical lands which makes the management of these lands for forest use pretty difficult.

HIGBIE: Commissioner, the --

MOSS: We are -- excuse me --

WRISTON: Yeah, is he on the wrong --

HIGBIE: The last two are not --

MOSS: The last two are not recommended for change, I meant to say that, that's the one where we have the high percentage of forest soils.

WRISTON: Oh, okay, you're on the other. Okay.

MOSS: Oh, are we on a different page here? I'm sorry.

WRISTON: No, I think we're just looking at different matrixes.

MOSS: Okay. And that's what I meant, are we --

WRISTON: No, you counted five, I counted three, that's fine.

MOSS: I think the percentage of critical lands here is if I were inclined at all to vote any other way, that would change my mind. That makes me unable on any of these parcels to

go along with staff's recommendation except the two where they're recommending no change.

WRISTON: Okay. Dick.

DELEISSEGUES: I just can't understand, I guess, why the parcels that they have recommended for downzoning were recommended in the one off to the east circled in red or outlined in red as it looks, they all look about the same as far as characteristics go, but the one on the east is not recommended for change and these two are, then you look up to the north there's a number of large parcels up there that are completely forested and pretty good sized parcels and none of them were recommended for downzoning right under the zero and the A and the 3500 an acre project at the top of the map, some off to the east too, and it I don't know, it just looks like the criteria if it were applied consistently there would be a number of parcels recommended for downzoning and why these two were selected to me doesn't look a whole lot different than why a whole bunch of others were not selected. So, you know, just from a consistency standpoint I guess if nothing else I wouldn't recommend that these two be singled out for downzoning. In this particular area it looks like there's kind of an inconsistent application of the criteria. Other than that, again they're pretty small parcels for any kind of a long-term viable agricultural enterprise, so I would vote on 23 to not downzone any of those parcels.

WRISTON: Ron.

BARCA: Well, we've been talking a lot about the aspect of percentage of critical lands, but I think if we looked at lands that were already zoned as resource lands and then started surveying how much critical land was on them, I think we would find very similar percentages but they're still viable for some reason or another. It's the nature of Clark County, especially in the northern stretch, that critical lands intermingle because of drainages and so forth throughout. Once again, visiting these parcels and seeing what their current use is and what I deem their ability to continue in current use, I would have to say that staff's recommendation was appropriate.

And to try and move Dick's discussion a little bit further, yeah, there was some inconsistencies that I saw as well, Dick, but I think I tried to comment on that earlier in the aspect that I thought staff was being overly sensitive to the aspect of parcelization and using size as portions of the criteria and being sensitive to the aspect of how much the adjacent borders had actual structures on it as opposed to just parcelization without structure. I think there was a lot more land in the remand that would have been viable candidates for this and we're compounding the previous errors that were made to try and get through this remand and put this thing to bed, but we have the obligation through GMA to try and designate and then what we do designate protect.

So trying to understand specifically how some fall in and some fall out I think several of you have mentioned that you could go either way on some of these parcels and I think that's what's happened with staff too, but I see that their conservative nature has perhaps made it even more confounding to try and follow the logic than if they were somewhat blatant in their choices. So I'm talking you up guys even though it doesn't seem like it and I'm sticking with you.

WRISTON: All right. Carey.

SMITH: I believe these aren't very large parcels but they are mostly wooded. I think these are one of I would go along with staff on these, although if there had been some, if there had been testimony I'd probably feel differently about these. But these are as far as I'm concerned right on the fence and if there were testimony I would probably go against staff, but with no testimony I'll go along with staff on this.

WRISTON: Okay. I'm going to not go along with staff on it. I did struggle with this one a little because of the forest cover, but I guess I'm convinced by, you know, somewhat scattered forest cover and/or managing it for forest, again, I'm not sure we need to penalize them when you look at the size of the lots. I was struggling a little. I went back to Map 1 where I was expressing in that Area 20 where I thought that was appropriate but that is within a very heavily forested area, those parcels within a very heavily forested area and these parcels kind of stick out like a sore thumb. So that again in my mind, and with 57, 38 and 33 acres respectively, those are fairly small parcels, and they're also under multiple ownership as well so that doesn't mean that they're necessarily going to be managed the same way, so I'm not going to go along with staff's recommendation. So I think that's 3 to 2 to reject staff's recommendation. And that takes us to our last area I believe, Area 25.

HIGBIE: Just one lot in the upper right-hand corner of that map.

WRISTON: Right. Do you want to start, Ron?

HIGBIE: And there is testimony on that.

WRISTON: Okay. Dick, are you going to start?

DELEISSEGUES: Yeah, while Ron's thinking I just would like to add one more thing to the previous one and that is there is definitely under the environmental considerations for the Area 23 there's one of those would raise a red flag for any kind of timber operations and that's unstable slopes, severe erosion hazard, and, you know, what do you have, wetlands, hydric soils, all those characteristics would be a real -- a number of reasons why you would not want to go in there and do for example a clear-cut, you'd be selective removal. And that's expensive timber harvesting in this day and age and if you can't replant, it doesn't leave much opportunity for a viable long-term forestry operation in the Pacific Northwest where an awful lot of the cover is Fir so.

BARCA: Excuse me, are we talking about Area 25?

DELEISSEGUES: 3, I wanted to add that to Area 23, just --

BARCA: Oh, okay.

MOSS: He was just clarifying comments, he's regressing back.

BARCA: Oh, okay, I missed that part and I was wondering where all this unstable slope

was coming from.

DELEISSEGUES: You're first on 25.

BARCA: Oh, I'm first.

WRISTON: Yeah, why not.

BARCA: Okay, why not. Much like all the parcels that were chosen by staff, current use taxation is in this way, there's a lot of evidence of current use or previous current use on the parcel, and going up there and taking a look at what there is leads me to believe that it meets the criteria and I will continue to support staff on this recommendation.

WRISTON: Okay, thanks. Who wants to go next? Lonnie.

MOSS: Well, I have a couple of questions of staff on this one. This is a parcel I'm not familiar with. There are two questions I have. Do you know what the current use category is?

HIGBIE: Not right off hand, I can find it.

MOSS: Also there's, I think I saw here, oh, there's riparian habitat on this. Do you know where the riparian habitat occurs, if it's on the east half or the west half?

HIGBIE: No, I don't.

MOSS: You know, I have some concerns about that in particular because I'm unable to see in the cleared part out there any evidence of a creek so I suspect that it's probably over there in the timbered part, and if there's significant riparian habitat over there because of that, that certainly doesn't lend itself to timber production.

LOWRY: You did get testimony on this one as I recall.

MOSS: Yeah, and I don't recall that testimony.

LOWRY: Do you have the notes?

SMITH: He said just one corner I believe.

WRISTON: Yeah, on this deal.

LOWRY: My vague recollection is that the owner did testify to riparian habitat within the timbered area and that that in his opinion made it not good timberland.

MOSS: Okay.

WRISTON: Webbed feet.

MOSS: Yeah, particularly if you can't cut them because of the buffers. Yeah, and that was my concern to clarify that if there's riparian habitat there, then there's restrictions on timber harvest within that riparian habitat. So this, if it's over there in the east side, that certainly doesn't lend itself very well to timber production. And of course we have the west half of this that's cleared, it's a long time before you see any commercial production of trees on this land. I guess that's what we're talking about when we say "long-term commercial significance."

WRISTON: So is that a "no"?

MOSS: That's a "no."

WRISTON: No, okay. Carey.

SMITH: No.

WRISTON: Okay. Dick.

DELEISSEGUES: Well, the west side's cleared and the right side's encumbered with wetlands or riparian so I'd say no.

WRISTON: And I would agree. So 4 to 1 we reject staff's recommendation on Area 25. I believe that's it.

HIGBIE: That's it.

DELEISSEGUES: That's it.

OLD BUSINESS

WRISTON: All right. Do we have any old business? New business? Pat, Bob, anything? You guys all have your schedules and know what's going on; right?

BARCA: What's going on?

MOSS: When is our next meeting?

WRISTON: I saw a schedule here.

MOSS: Is it a month from now or don't we have a work session between?

WISER: It's in May on May 15th.

MOSS: Okay. Was there a workshop between now and then?

WISER: No.

BARCA: The workshops were canceled.

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

DELEISSEGUES: Yeah. I told Bob Higbie but I'll say it again, I think the staff did a remarkable job with the task that you were confronted with and don't want to sound like, you know, we're not in support with staff recommendations, but after reviewing this we're not in support of staff's recommendations.

HIGBIE: Thank you very much.

WRISTON: No, I agree. I think it's a -- I would agree, I think it was a very, very tough and complex task and I think the way -- I mean the testimony and the fact that how we were able to flow through it tonight it was very helpful and made for an easy discussion. So, all right, let's adjourn. Thank you.

ADJOURNMENT

The hearing adjourned at 10:00 p.m. All proceedings of tonight's hearing are filed at Clark County Community Development, Long Range Planning.

Jeff Wriston, Vice Chair

Date

Minutes Transcribed By:
Cindy Holley, Court Reporter
Sonja Wiser, Administrative Assistant
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